

# **Finance and Operational Performance Committee**

**Thursday, 14 March 2002  
Commencing at 9.00 am**

**Part III: Finance**

**Item 8: Borrowing and Investment  
Report**

**Item 15: Request for Rate Remission  
Section 21 of the Rating  
Powers Act 1988**

**SUPPLEMENT TO AGENDA FOR AN ORDINARY MEETING OF THE FINANCE AND  
OPERATIONAL PERFORMANCE COMMITTEE TO BE HELD IN THE CIVIC  
CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON THURSDAY, 14 MARCH 2002  
COMMENCING AT 9.00 AM.**

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**PART III - FINANCE**

**8 BORROWING AND INVESTMENT REPORT**

**PURPOSE OF THE REPORT**

Waitakere City Council enters into treasury related financial contracts in the ordinary course of its business. It is the role of Council's funds management function to manage such contracts and the impact that they have on the organisation. All funds management transactions are governed by the Borrowing and Investment Policy prepared in compliance with the Local Government Act 1974. As a requirement of the Borrowing and Investment Policy, this report informs Council on the current and future movements of Council's debt and cash investments and provides a general commentary of financial market conditions.

**SUMMARY OF BORROWING AND INVESTMENT MOVEMENTS, JANUARY 2002**

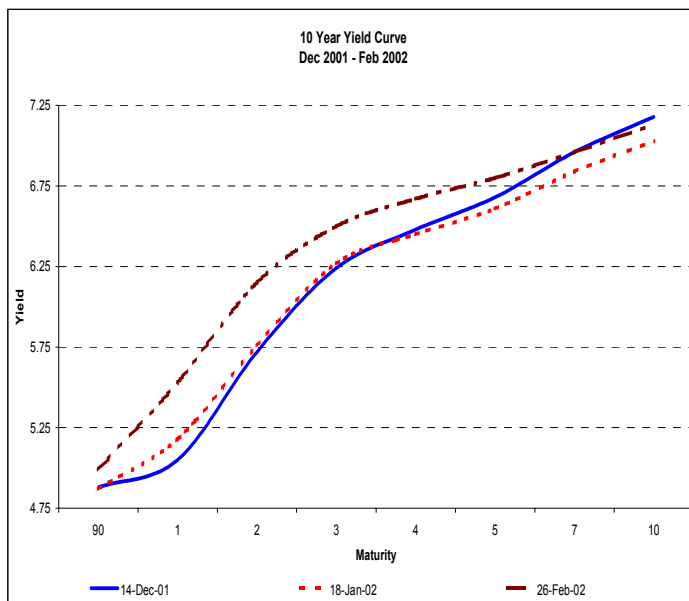
The Council's gross term debt position has increased by \$4.7 million since December with a closing balance at January month end of \$110 million. Working capital borrowing of \$15.2 million at 31 January 2002 has been funded using the Council's special fund reserves and unsecured bank loans.

**SIGNIFICANT FUNDING TRANSACTIONS ENTERED INTO DURING JANUARY 2002**

- New medium term floating rate bond. Principle \$5 million, maturing 15 June 2002, interest rate – Bank Bill Rate plus 0.10%.
- New medium term floating rate bond. Principle \$5 million, maturing 15 October 2002, Interest rate – Bank Bill Rate plus 0.10%.
- Sinking Fund re-invested, ANZ term investment of 29 days, invested \$1,587,500 accruing interest at 4.85%.
- Sinking Fund re-invested, WestpacTrust term investment of 90 days, invested 1,900,000 accruing interest at 4.85%.
- Sinking Fund re-invested, ASB Bank term investment of 90 days, invested 1,900,000 accruing interest at 4.85%.
- Auckland Regional Services Trust Fund re-invested, ANZ term investment of 90 days invested \$1,061,037.25 accruing interest at 4.85%

## FINANCIAL MARKET COMMENTARY

### Interest Rate Overview



The graph, which refers to yields, represents the change in interest rates over the past two months. A number of small issues have developed over the past month, as the financial markets look for direction. 90 Day Bank Bill interest rates have generally increased, from a once steady level of 4.85% since November, to interest rates approaching 5.0%. For longer term interest rates, five and ten year maturities have generally remained relatively steady. This has begun to decrease the steepness of local interest rate spreads, a trend that is likely to continue for some time yet.

### Interest Rate Expectations

The most important local news recently to emerge is the Government's moves to increase petrol tax by 4 cents a litre. In itself, this news has little immediate effect on the Reserve Bank of New Zealand inflation parameters, which does not include Government taxes, however, the cost increase will be passed onto the consumer through increased prices from sectors dependent on fuel. This may not be a significant inflationary risk alone, though local inflation has been muted by the low oil prices, which will rise as the global economy improves. Add to this the drop off of decreased rental costs for state housing, from the year on year inflation figures and we begin to see that inflation is at the higher end of Don Brash's target range.

Unless there is a sustained strengthening in the value of the NZ dollar, reducing the costs of imported goods, the Reserve Bank of New Zealand will be forced to increase the Official Cash Rate (OCR) to counter the inflation figures. Most market commentators have now accepted the likely OCR increase though the questions still remain, when and by how much? Each commentator has their own answer, though the general consensus is that the OCR will be 5.75% by December 2002.

### Up coming dates

Monetary Policy Review	20 March 2002
Official Cash Rate Review	17 April 2002
New Zealand Government Budget	23 May 2002

### CONCLUSION

All transactions covered by this report have complied with the requirements of Council Policy. Council's current net term debt is within the limits approved in the 2001/2002 Annual Budget.

### RECOMMENDATION

That the information be received.

Report prepared by: Bruce Wilkin, Funds Accountant.



15 **REQUEST FOR RATE REMISSION SECTION 21 OF THE RATING POWERS ACT 1988**

**PURPOSE OF THE REPORT**

A55

The purpose of this report is to determine an application received from Plumstead Developments Limited for the cancellation of the Uniform Annual General Charge on a subdivision at Plumstead Gardens in Glen Eden. A copy of the correspondence is attached at page A55.

**BACKGROUND**

As an integral part of its differential rating system, this Council currently levies a Uniform Annual General Charge amounting to \$510 on every separately rateable property in the city as part of its general rates to ensure that a minimum contribution to services and 'overhead' is paid by all properties regardless of land value, with the balance of the general rate requirement then being shared between properties according to the particular land value attributed on the District's Valuation Roll.

Section 21(1) of the Rating Powers Act 1988 provides:

*"The territorial authority may, on its own motion or on the application of any ratepayer who is the occupier of more than one separately rateable property in the district or a subdivision of the district, reduce or cancel any separate uniform annual charge or uniform annual general charge in respect of one or more of the separately rateable properties occupied by that occupier in the district or subdivision if it considers it reasonable to do so."*

This Council does not have an explicit policy on the remission of uniform annual general charges under this section of the Act and has not in the past reduced or cancelled such charges in the circumstances applicable to Plumstead Developments Limited. Any application must therefore be considered on its merits.

In context it is important to appreciate that the term "a subdivision of the district" as used in S.21(1) means by definition an electoral ward not a development as carried out by a commercial subdivider/developer.

Mr Sutton is a director of Plumstead Development Limited and Axiom Consulting Limited. These companies are presently scheduled as the ratepayer under 13 rate accounts, most in significant arrear. The majority of these accounts are maintained on behalf of Plumstead.

Following the enactment of the Rating Valuations Act 1998, where a subdivision of a property occurs a separate entry in the valuation roll is made for each lot in the subdivision when the approved subdivision plan is lodged with the Land Transfer Office and a separate title is able to be issued and uplifted. Rating of each separate entry in the valuation roll commences from the beginning of the next rating year and a Uniform Annual General Charge is then levied on each assessment as part of the annual rate strike.

In a High Court judgement delivered in November 2000 on a case taken against Rodney District and North Shore and Waitakere City Councils, initiated by a number of property developers, it was ruled that each lot is a separately rateable property and that such properties are not used contiguously with other properties in a subdivision which may remain in the ownership of the property developer pending on-sale. Thus the three criteria set out in S.23 of the Rating Powers Act 1988, namely:-

*“Where any 2 or more separately rateable properties are:*

- a) Occupied by the same ratepayer; and*
- b) d jointly as a single property; and*
- c) Contiguous or separated only by road, railway, drain, water race, river, or stream, -*

*they shall be deemed to be one property for the purposes of making and levying any uniform annual general charge made under section 19 of this Act or any separate uniform annual charge under section 20 of this Act.’*

were not satisfied. A significant number of properties do receive relief under the terms of this provision.

A copy of this Judgment, which is issued in two parts, has been circulated with this report.

Additional statutory grounds for remission of a Uniform Annual General Charge are set out in S.21(2) of the Rating Powers Act, namely:-

*“(2) The territorial authority may, on its own motion or on the application of any ratepayer, reduce or cancel any uniform annual general charge, or any separate uniform annual charge, in respect of any separately rateable property where –*

- a) It has refused the issue of a building permit for that property pursuant to section 641(2) of the Local Government Act 1974; or*
- b) It considers it likely that it would be obliged to refuse any application for the issue of such a permit –*

*And it considers it reasonable in the circumstances to do so.*

That circumstance is also not applicable here. Consequently a separate Uniform Annual General Charge is able to be levied on each assessment separately entered on the Roll.

The judgement confirms that S.21(1) provides for discretionary rating relief. There is no requirement under S.21(1) that the properties in common ownership be contiguous or that there be a commonality of use and the charges may be cancelled or reduced by Council in respect of any one or more of the separately rateable properties occupied. Council is to be guided by consideration of what is reasonable in the circumstances, and the particular circumstances of the applicant.

## **STRATEGIC CONTEXT**

General rates are not a charge for services provided (or not provided) to any property. They are a form of property tax levied to fund the cost of providing services to the whole community. The Court of Appeal in a case taken against Wellington City Council affirmed this view.

In this context, the charging of a Uniform Annual General Charge on every property is neither fair, nor unfair. It is simply the application of a statutory funding mechanism, consistent with Council’s intention to secure a minimum contribution towards the rate requirement from each separate property, subject to the statutory limitation in S.25(1) of the Rating Powers Act that not more than 30% of the estimated total rates revenue be recovered from uniform charges.

It is important that the rating system and the Funding Policy in relation to rates remissions attempt to maintain equity between properties. Council has a fiduciary duty to act fairly between individual ratepayers and with respect to categories of ratepayers under its differential rating system and cannot arbitrarily treat ratepayers differently in similar or identical circumstances.

### **ISSUES**

This application has not put forward any argument as to why the Charge should be remitted other than to claim that it is unfair.

This property development together with all other property developments for housing are rated at the same rate as residential properties, notwithstanding that the property development is a business venture undertaken by a company.

If this application for remission of the Uniform Annual General Charge were to be approved, these Charges would have to be remitted on virtually every vacant subdivided lot. It would also provide a precedent for similar applications to other local authorities. Another developer made a similar application to North Shore City some months ago. That Council declined the application.

### **CONCLUSION**

To approve this application for remission of the Uniform Annual General Charge would create a precedent that should then be applied to numerous other developers and there has been no unique reason given to justify remission of the Charge, simply an unsubstantiated claim of unfairness. It is also unclear how properties on the Roll would be identified administratively as having similar circumstances applicable.

The fact that a subdivided lot is vacant and that the developer owns other allotments, whether contiguous or not, is on its own is not sufficient to justify a lower rate on such a property.

### **RECOMMENDATIONS**

1. That the information be received.
2. That the application for cancellation of the Uniform Annual General Charge on this property development be declined.

Report prepared by: Andrew Pollock, Director: Finance.



**WAITAKERE CITY COUNCIL DEBT PORTFOLIO AT  
31 January 2002**

	<b>TERM DEBT</b> (to fund long term assets)	<b>(\$000's)</b>
<i>Budget year end term debt position per 2001/2002 Annual Plan</i>	Budget term debt	165,598
	Further term debt approved by Council during 2001/2002	-
	<b>Budget 2001/2002 year end gross term debt</b>	<b>165,598</b>
	Forecast year end Sinking Fund Commissioner assets	5,520
	<b>Anticipated 2001/2002 Year End Net Term Debt</b>	<b>160,078</b>

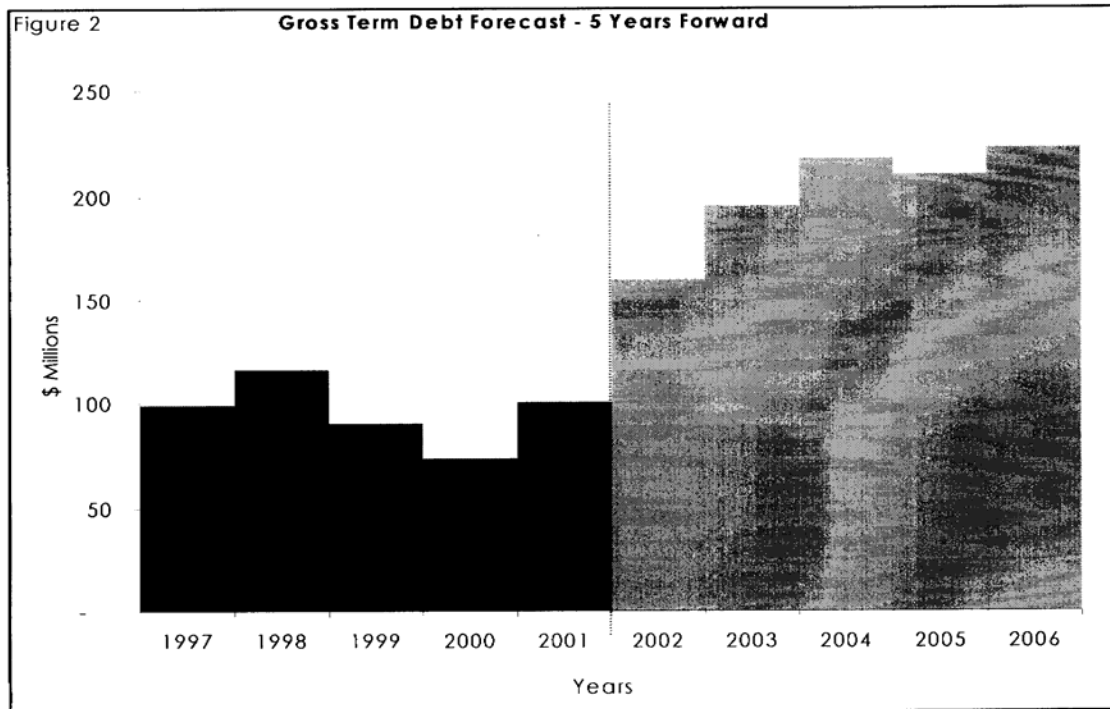
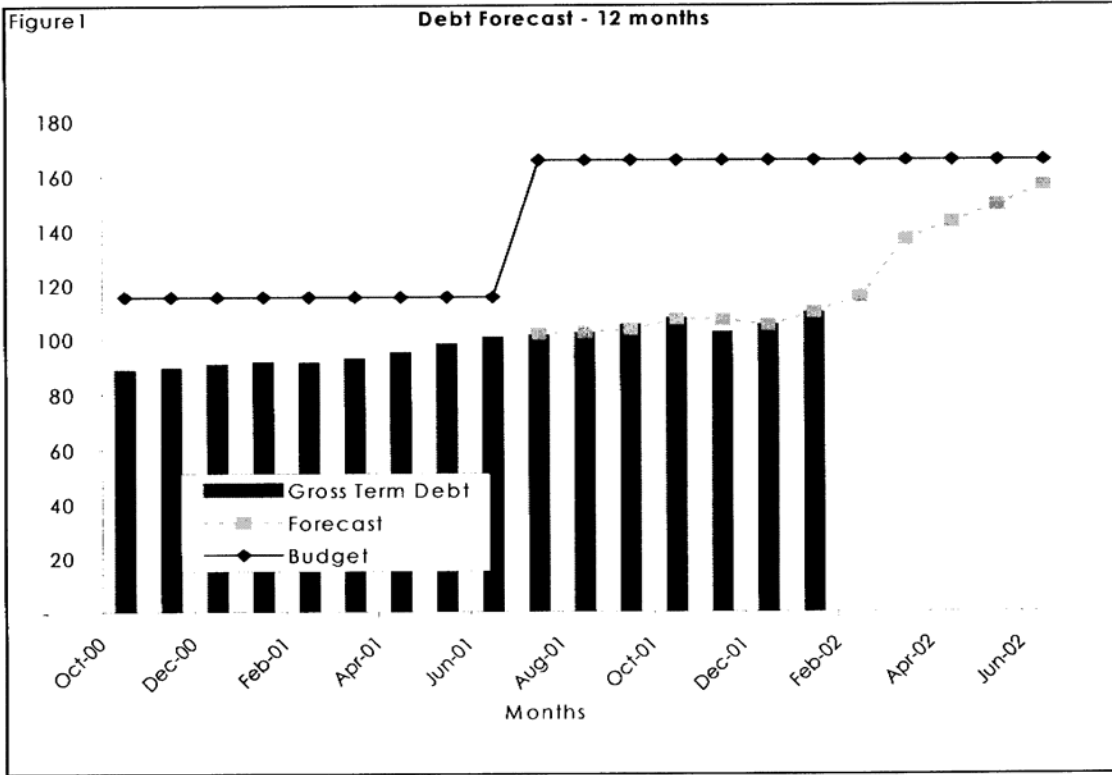
		January 02	December 01
	<b>TERM DEBT PORTFOLIO</b>	<b>(\$000's)</b>	<b>(\$000's)</b>
<i>Term debt position at 31 January 2002</i>	Term debt borrowed externally	109,689	103,598
	Special funds (used to reduce Council's external borrowing)	-	1,349
	<b>Gross term debt</b>	<b>109,689</b>	<b>104,947</b>
	Total Sinking Fund Commissioner assets	5,400	5,378
	<b>Net term debt</b>	<b>104,289</b>	<b>99,569</b>

<i>Term debt - source of funds at 31 January 2002</i>	Debenture stock - fixed rate (security: Debenture Trust Deed)	58,496	58,496
	Debenture stock - floating rate (security: Debenture Trust Deed)	45,025	35,025
	Secured bank loans (security: Debenture Trust Deed)	-	-
	Unsecured bank loans	6,100	10,000
	Finance Leases (security: associated asset)	68	77
	<b>External borrowing</b>	<b>109,689</b>	<b>103,598</b>
	Special funds (used to reduce Council's external borrowing)	-	1,349
	<b>Gross term debt requirement</b>	<b>109,689</b>	<b>104,947</b>

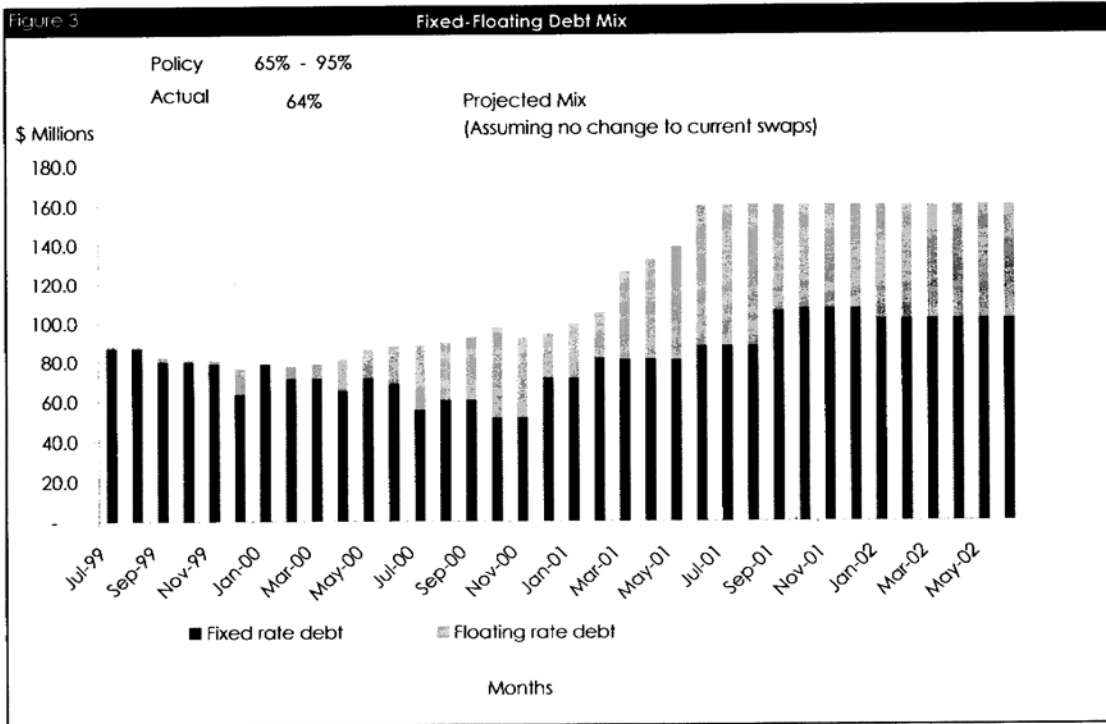
	<b>WORKING CAPITAL</b>	<b>(\$000's)</b>	<b>(\$000's)</b>
<i>Working capital borrowing at 31 January 2002</i>	Unsecured bank loans	3,284	-
	Special funds (used to reduce Council's external borrowing)	11,962	10,381
	<b>Council working capital borrowing requirement</b>	<b>15,246</b>	<b>10,381</b>

	<b>CASH INVESTMENTS</b>	<b>(\$000's)</b>	<b>(\$000's)</b>
<i>Cash investments held in trust 31 January 2002</i>	Debt repayment fund	-	-
	ARST fund (excluding fund allocations)	1,063	1,059
	<b>Total cash investments</b>	<b>1,063</b>	<b>1,059</b>
	Invested for 90 days - Current investment interest rate	4.85%	4.89%

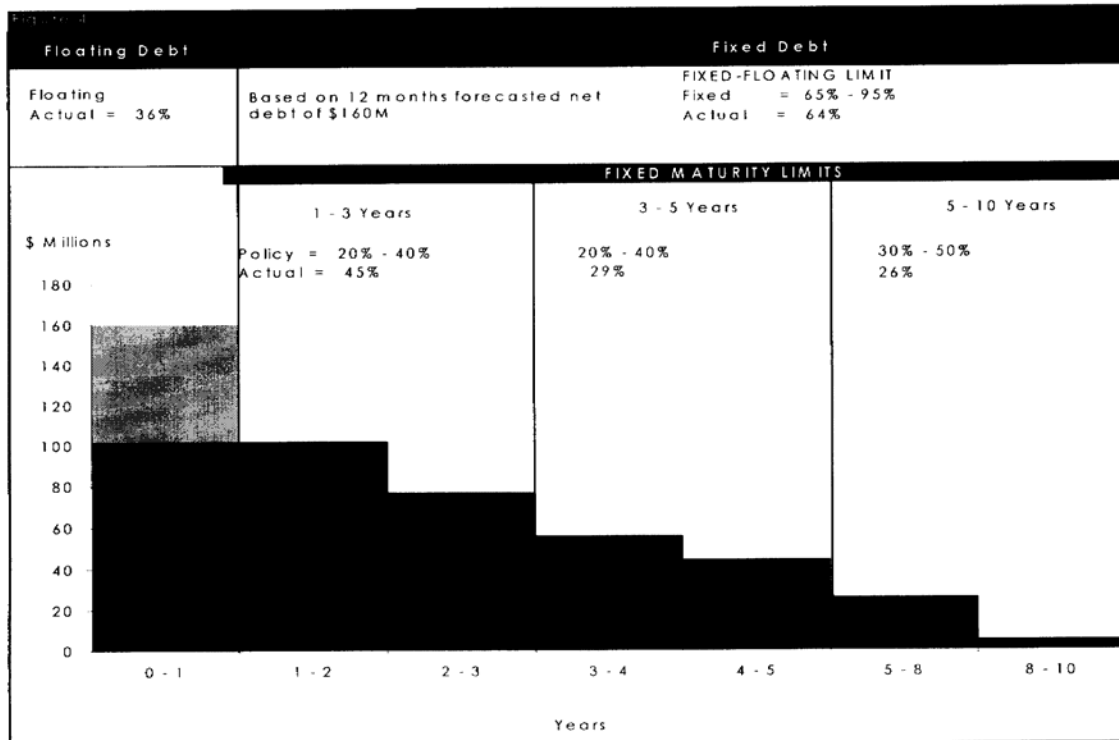
**Debt Forecast**

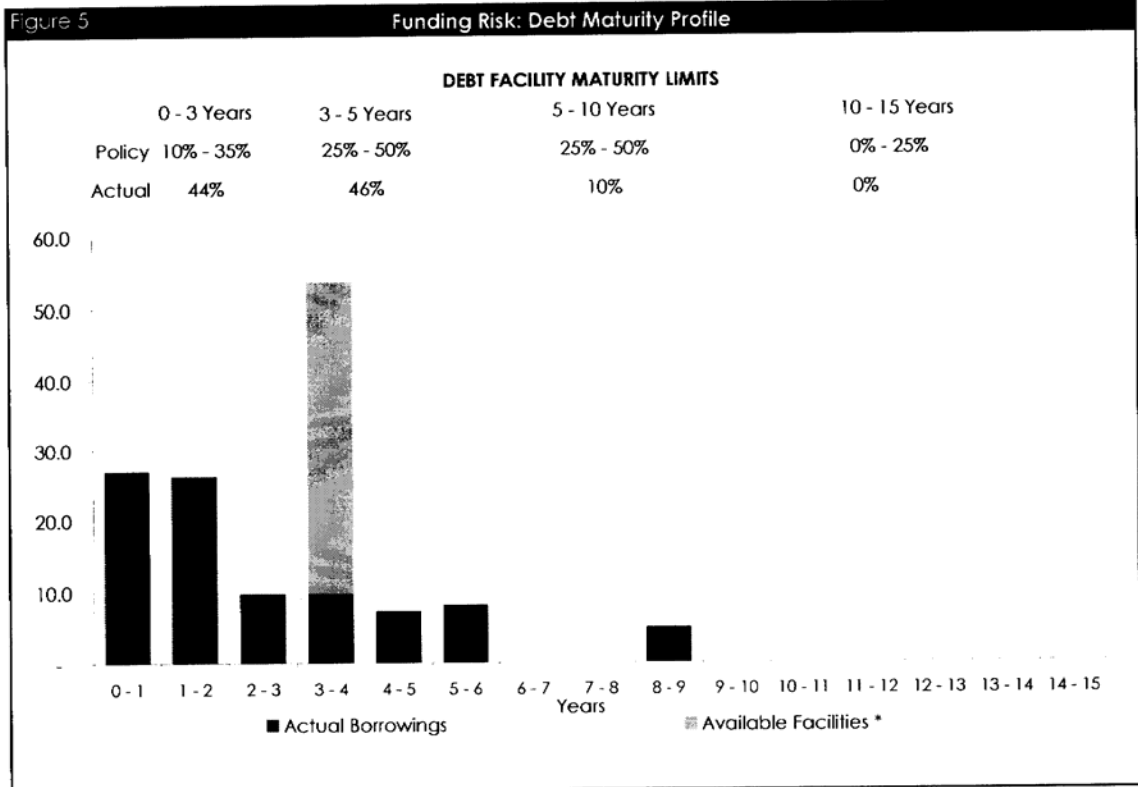


### Fixed-Floating Debt Mix



### Net Interest Rate Repricing Risk Profile





\* Note: (1) Available facilities net of 6.1m uncommitted borrowings  
 (2) Council is in the unique position of having a \$50 million committed funding facility at zero cost for the non utilised portion of the facility. The nature of this facility may, depending on the utilisation, result in a breach of the funding maturity limits. As this facility is very much in Council's favour this is an acceptable breach of policy.

**Summary of Debt Sources**

Council Approved Debt Sources	\$ Millions		
	Committed Funding Sources	Usage	Available
Bank Loans			
Short Term (uncommitted)	\$0.0	\$6.1	\$0.0
Long Term (committed)	\$50.0	\$0.0	\$43.9
Commercial Paper			
Bank Overdraft	\$1.0	\$0.0	\$1.0
Senior Bonds			
Retail	\$20.4	\$20.4	\$0.0
Wholesale	\$83.2	\$83.2	\$0.0
Other	\$0.0	\$0.1	\$0.0
<b>TOTAL</b>	<b>\$154.5</b>	<b>\$109.7</b>	<b>\$44.9</b>

## **Notes:**

**Working capital borrowing** is necessary due to fluctuations in the timing of operating revenue and expenditure. The working capital borrowing requirement also includes internal deficits relating to prior years. External working capital borrowing is reduced by the use of internal special funds with any surplus requirement funded by way of unsecured bank loans.

**Gross Term debt** is the borrowing relating to long term loan funded capital works projects. External borrowing to fund term debt is reduced by the use of internal special funds with the surplus requirement funded by way of secured or unsecured short term bank loans, fixed or floating medium or long term bonds and finance leases.

**The managed debt portfolio** refers to the portion of Council's total debt portfolio that is managed to reduce interest rate risk, liquidity/funding risk, counterparty risk and operational and legal risk as defined in the Borrowing and Investment Policy. The portfolio is managed on the external net term debt requirement excluding finance leases. i.e. it is net of the special funds that have been used to reduce the external term debt requirement and the sinking fund balance. Working capital is not included in the managed debt portfolio.

**Special Funds** are cash funds either collected through rates or vested to Council that have been 'set aside' for specific future spending. The funds are used in the interim to reduce Council's requirement to borrow externally. The fund is managed via accounting entries and a monthly interest allocation is made to the funds based on the Council's weighted average cost of borrowing for that period.

## **Description of Graphs:**

### **Figure 1**

*Gross term debt* (blue) is the actual gross term debt position of Council as defined in the notes above. The *Forecast* (orange) is the projected gross term debt level per month in the current financial year, the figures are obtained from capital works timing forecasts (provided by budget managers on a monthly basis) and the current debt maturity profile. The *Budget* (green) line represents the gross public debt as approved in the 2001/2002 Annual Plan.

### **Figure 2**

The prior year gross term debt figures (blue section) are obtained directly from the 'Term Liabilities' disclosure in published Annual Reports. The orange section is the projected gross term debt as forecast in the Annual and Strategic Plan 2000/2001 - 2009/2010.

### **Figure 3**

The fixed (blue) and floating (orange) interest rate mix, both historic and projected, based on the 12 month rolling forecast net debt requirement. The Borrowing and Investment Policy minimum is 65% fixed and maximum 95% fixed. The positioning of the portfolio between policy minimum and policy maximum is dependent on the current and forecast financial market outlook.

### **Figure 4**

Interest rate risk profile. Figure 4 shows, given the current fixed/floating rate mix and the debt forecast (assuming no changes to current swaps), the percentage of current fixed rate debt that will mature in future years. This enables Council to recognise and reduce significant concentrations of interest rate risk that may arise in future years. As debt forecasts change the amount of fixed cover in place may have to be adjusted to comply with the policy limits.

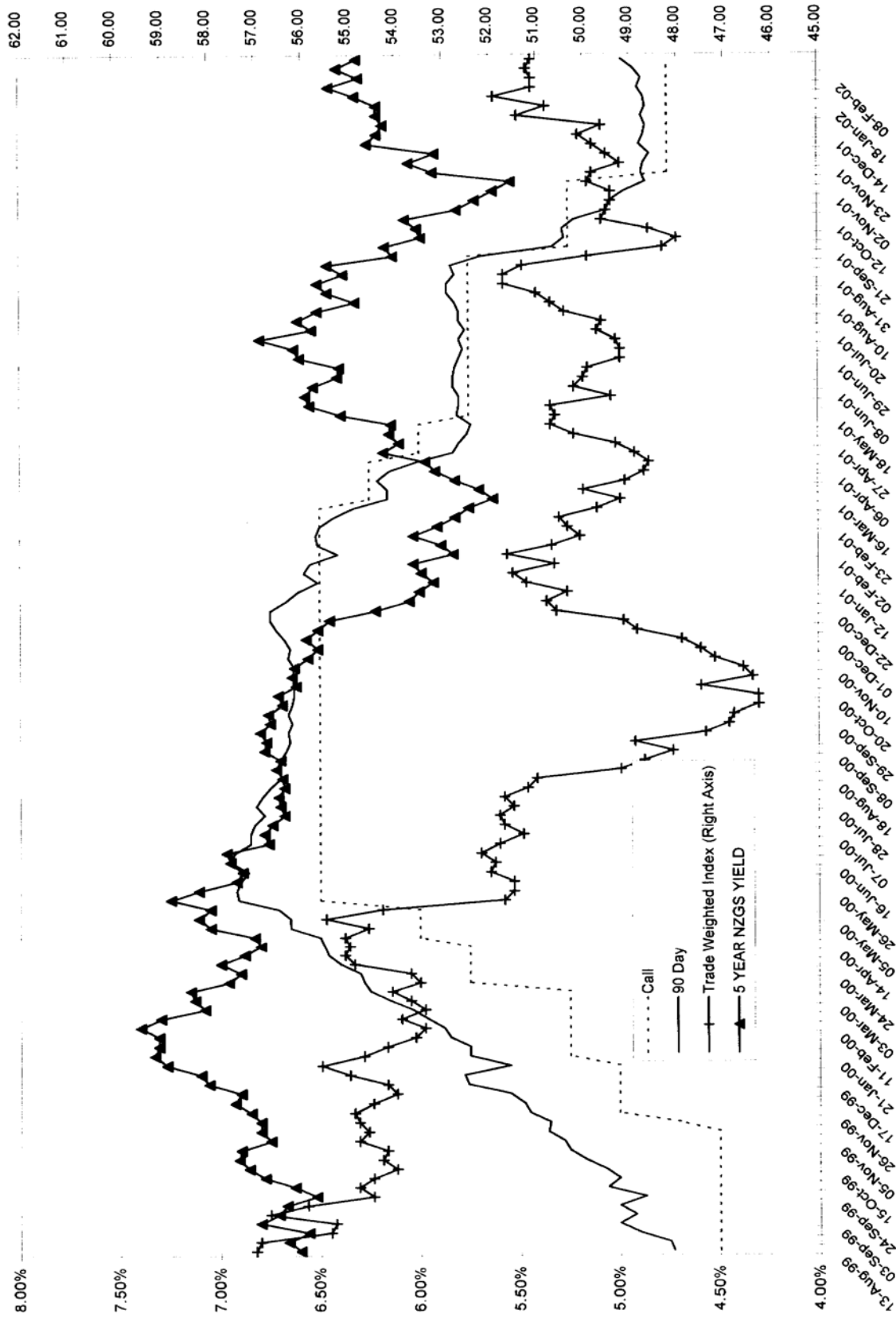
### **Figure 5**

Funding and liquidity risk. Figure 5 varies from figure 4 in that it shows the actual maturity profile of current debt on issue as opposed to the profile of Council's exposure to interest rate risk arising when debt either reprices (in the case of floating rate debt or hedges) or matures. The debt maturity profile enables Council to identify significant concentrations of maturing debt and debt facilities. Where there are significant concentrations of debt maturing Council is at risk of not being able to re-borrow from the market at favourable rates.

### **Figure 6**

In order to ensure Council has the ability to borrow from the market when funding is required committed funding facilities are arranged with approved debt sources. Figure 6 shows Council's committed funding sources and the current usage of these funds. In addition to the committed sources Council also uses uncommitted lines of funding as seen in short term bank loans and bonds, uncommitted funding is at times less expensive than committed funding however its availability is not guaranteed.

### Wholesale Market Interest Rates and the Trade Weighted Index



Source: ASB Bank Economic Reports

# Plumstead

# Developments Ltd

21 February, 2002

Mayor, Bob Harvey  
Waitakere City Council  
Private Bag  
Henderson  
WAITAKERE CITY

c.c. H. O'Rourke, CEO  
Brian Bellard  
Property Council of NZ

**REF : Rates at Plumstead Gardens, Glen Eden**

Dear Bob

As you may well recall, over the past 2 to 3 years I have talked to a variety of people at Councils offices, without a satisfactory result. I have called your office and Harry O'Rourke's the discourse led to a meeting with Jenny Price and the subsequent lodging of a submission to the Budgets Committee. What a waste of time and energy that was.

I wanted a meeting with **"THE PEOPLE WHO SET THE POLICIES"** to discuss the fairness of a policy that sets rates on new sections created, by a developer, for the benefit of the community and council as well as themselves. Instead, what I got was the same comments that I get from your staff e.g. "rates are a form of tax" "Government has set the policies" "all Councils charge the same way" etc. etc. I guess you would argue that "they are at least consistent".

Bob, I wish to formally apply for a cancellation of the "Uniform Annual General Charge" under Section 21 of the Rating Powers Act 1988, to be back dated to July 1999. As a consolation to Council the request is only for the sections we still own at present. Surely, this is a fair and equitable proposal.

When all else is said and done, council are the major beneficiary when a property is being developed. I believe your current system has been, unintentionally, instituted without due consideration of its fairness, particularly in difficult times.

I am quite willing to make myself available to discuss its implications with yourself and/or others who assist in making these decisions, rather than in a court of law, which it appears your staff want, (judging by their threats).

Kind Regards

Barry Sutton  
Managing Director

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